

**Filed 6/19/13 by Clerk of Supreme Court
IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

2013 ND 107

Jennifer Jill Smedshammer,

Plaintiff and Appellant

v.

Troy Howard Smedshammer,

Defendant and Appellee

No. 20120441

Appeal from the District Court of Cass County, East Central Judicial District,
the Honorable Frank L. Racek, Judge.

AFFIRMED.

Per Curiam.

Jennifer J. Smedshammer, self-represented, P.O. Box 15, Mapleton, N.D.
58509, plaintiff and appellant.

Anna K. Schultz (argued) and Robert J. Schultz (on brief), P.O. Box 2686,
Fargo, N.D. 58108-2686, for defendant and appellee.

Smedshammer v. Smedshammer

No. 20120441

Per Curiam.

[¶1] Jennifer Smedshammer appealed from a district court order adopting and affirming a judicial referee's findings and order granting Troy Smedshammer's motion to modify primary residential responsibility of one of the parties' children. Jennifer Smedshammer argues the court erred in finding Troy Smedshammer established a prima facie case entitling him to an evidentiary hearing on his motion and the court's findings about the best interest factors are clearly erroneous. We conclude Jennifer Smedshammer may not challenge the court's finding that Troy Smedshammer established a prima facie case. See Kartes v. Kartes, 2013 ND 106, ¶ 18 (any issue regarding the evidentiary basis for a court's decision that the moving party has established a prima facie case justifying modification of primary residential responsibility is rendered moot once an evidentiary hearing is held). We also conclude the court's findings on the best interest factors are not clearly erroneous. We summarily affirm under N.D.R.App.P. 35.1(a)(2) and (7).

[¶2] Gerald W. VandeWalle, C.J.
Dale V. Sandstrom
Daniel J. Crothers
Mary Muehlen Maring
Carol Ronning Kapsner